

BEFORE THE
ILLINOIS COMMERCE COMMISSION

Central Illinois Public Service) DOCKET NO.
Company (AmerenCIPS) and) 02-0798,03-0008,
Union Electric Company (AmerenUE)) 03-0009
)
Application for entry of) On Reopen
protective order to protect)
confidentiality of materials)
submitted in support of revised)
gas service tariffs.)

Springfield, Illinois
December 18, 2003

Met, pursuant to notice, at 10:00 a.m.

BEFORE:

MR. JOHN ALBERS, Administrative Law Judge

APPEARANCES:

MR. CHRISTOPHER W. FLYNN
Jones, Day, Reavis & Pogue
77 West Wacker, Suite 3500
Chicago, IL 60601
(Appearing via telephone on behalf of
AmerenUE.)

MR. THOMAS M. BYRNE
1901 Choteau Avenue
St. Louis, MO 63103
(Appearing via telephone on behalf of
AmerenUE.)

SULLIVAN REPORTING COMPANY, by
Tracy G. Bartolomucci, Reporter Ln. #084-003861

1 APPEARANCES:

2 MS. LINDA M. BUELL
3 527 East Capitol Avenue
4 Springfield, Illinois 62701
(Appearing on behalf of the Staff of the
Illinois Commerce Commission.)

5 MR. RANDOLPH CLARK
6 100 West Randolph, 11th Floor
Chicago, IL 60601
(Appearing via telephone on behalf of the
7 People of the State of Illinois.)

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I N D E X

WITNESSES

DIRECT CROSS REDIRECT RECROSS

None.

I N D E X

EXHIBITS

MARKED

ADMITTED

None marked.

P R O C E E D I N G S

JUDGE ALBERS: By the authority vested in me by the Illinois Commerce Commission, I now call docket number 02-0798, 03-0008 and 03-0009. All three of these dockets concern a proposed general increase in the gas rates of Ameren Central Illinois Public Service Company and AmerenUE Electric Company. In particular, we're here today for the rehearing of one issue concerning Union Electric Company.

May I have the appearances for the record, please.

MR. FLYNN: Christopher W. Flynn, Jones, Day, 77 West Wacker, Suite 3500, Chicago, Illinois, 60601 on behalf of AmerenUE.

MR. BYRNE: Thomas M. Byrne, 1901 Chouteau Avenue, St. Louis, Missouri, 63103 on behalf the AmerenUE.

MS. BUELL: Appearing on behalf of Staff witnesses of the Illinois Commerce Commission, Linda M. Buell, 527 East Capitol Avenue, Springfield, Illinois, 62701.

MR. CLARK: Appearing on behalf of the People

1 of the State of Illinois, Randolph Clark, 100 West
2 Randolph Street, 11th Floor, Chicago, Illinois,
3 60601.

4 JUDGE ALBERS: Thank you. Let the record
5 reflect -- actually, is there anyone else wishing to
6 enter an appearance? I didn't think so.

7 Let the record reflect that there are no
8 others wishing to enter an appearance.

9 Are there any preliminary matters this
10 morning?

11 Okay. The purpose of today's hearing then
12 is to establish a schedule in this matter, as well
13 as to further define the one issue upon which
14 rehearing has been granted. Mr. Brodsky and I have
15 a question about that, so why don't we take that
16 first before we get into scheduling.

17 As you'll recall, the Commission granted
18 rehearing to determine by what amount any increase
19 in accumulated depreciation may or may not exceed
20 the increases in -- or I'm sorry, any capital --
21 additions to plant and service.

22 The question that we have is whether or

1 not there is any merit or is it warranted to look at
2 actual numbers as opposed to the forecasted numbers
3 that were used in the case in chief in this matter.

4 Has anyone given any thought to that?

5 MR. FLYNN: This is Chris Flynn. Ameren has
6 given some thought to -- I guess to that question in
7 a broader context.

8 We had asked for rehearing on more than
9 one issue and had hoped, and I won't use the word
10 expected, we had merely hoped that we would be
11 holding a broader rehearing proceeding than we are,
12 but the Commission made its decision and so be it.

13 As a result, the amount of revenue change
14 for AmerenUE we're looking at is relatively small,
15 and we're not of the belief that it merits the full
16 dedication of Ameren resources in light of other
17 matters we're engaged in at this time.

18 Accordingly, while the Commission has
19 granted us the opportunity to present additional
20 evidence with respect to our investment in plant, we
21 believe that it is more appropriate simply to rely
22 on the evidence of record introduced in the last

1 proceeding as to what the projected adjusted plant
2 balances were, taking into account the level of
3 annual depreciation calculated by the AG, and simply
4 adjusting the AmerenUE rate base based on those
5 forecasted data the way that all the other elements
6 of rates were adjusted. That, we think, can be done
7 without any need for additional evidence or
8 dedication of resources by the Commission or any
9 party and can be resolved rather quickly.

10 JUDGE ALBERS: Ms. Buell or Mr. Clark, do
11 you have any thoughts on that question?

12 MS. BUELL: Oh, yes.

13 MR. CLARK: Yes.

14 MS. BUELL: Do you want to go ahead first,
15 Randy?

16 MR. CLARK: Sure. It's my position that the
17 scope of the rehearing is very narrow and was
18 specifically defined and that that scope is to look
19 at two numbers, and that those numbers are the
20 amount of accumulated depreciation and the amount of
21 forecast post-test year plant addition, both of
22 those numbers being on November 27th, 2003.

1 And this is a very narrow scope and it
2 addresses information that doesn't exist in the
3 record, and the reason for that is that the scope of
4 the rehearing has focused on what those figures are
5 or were on November 27th, 2003, and the record as we
6 have it was closed before then.

7 So it's the Attorney General's position
8 that the only thing we can do on rehearing is
9 collect additional evidence with regard to what
10 those numbers are as of November 27th, 2003, and if
11 the Company wishes to provide additional, wishes to
12 provide testimony with regard to what those numbers
13 are, I'm sure that we will have questions about that
14 testimony and have a need to conduct discovery to
15 inquire as to the bases for the numbers that the
16 Company presents.

17 If that's not what -- what we're going to
18 do, then I'm not sure what we're doing here.

19 MR. FLYNN: I'm sorry to interrupt, but
20 someone, actually, it was me, kicked the power cord
21 and unplugged our speaker phone shortly after
22 Mr. Clark began his remarks, and I apologize but

1 we've only just rejoined at a point which sounds
2 like it may be the end of these remarks. I don't
3 know, but we've missed about the last 60 seconds or
4 so.

5 MR. CLARK: You may have spared yourself,
6 but I'll be happy to do it again, if you'd like.

7 MR. FLYNN: My ears were burning so I assume it
8 wasn't supportive.

9 MR. CLARK: Well, it was supportive of my
10 position.

11 Essentially, what I said is that the AG's
12 position that the scope of the rehearing is narrow
13 and it focuses specifically on two pieces of
14 information, one being the amount of post-test year
15 capital additions, and two being the amount of
16 accumulated depreciation, both of those amounts as
17 they existed on November 27th, 2003. That date is
18 after the record was closed, and so accordingly,
19 information about those figures is not in the
20 record.

21 So it's the AG's position that what we
22 need to do on rehearing is receive testimony from

1 the Company regarding those figures and then conduct
2 discovery as to what the bases of the numbers
3 presented are. We don't feel that what's in the
4 record addresses the level of plant and service and
5 accumulated depreciation as of November 27th, 2003.

6 MS. BUELL: And Staff would have to support
7 the AG's position on this matter. Staff believes
8 that the issue that the Commission granted for
9 rehearing is specific and clear enough that there is
10 no evidence in the record to support that issue, and
11 that the Company needs to file testimony regarding
12 that issue as soon as possible because it will
13 involve a substantial amount of effort and research
14 and investigation by Staff in order to respond to
15 it.

16 JUDGE ALBERS: Okay. So, it seems to me
17 then that both the AG and Staff prefer the use of
18 actual numbers as of November 27th, 2003 whereas UE
19 prefers the use of those numbers which were in the
20 record when we last met, essentially.

21 MR. FLYNN: To clarify, what we would -- what
22 we had asked for was the opportunity on rehearing

1 to support the level of plant through the period up
2 for adjustment that's authorized by rule. In light
3 of the specific outcome of the Commission's actions
4 on our rehearing request, given the relative value
5 of the adjustment to us, we do not intend to take
6 advantage of the full opportunity granted us but
7 rather limit our request to the balances as of June
8 30, 2003 that are already in the record and that are
9 consistent with the adjustment period for every
10 other element of the rate.

11 MS. BUELL: But that's not the issue that
12 the Commission granted on rehearing. That's not
13 appropriate for this phase of the proceeding.

14 MR. CLARK: I would echo that comment, that
15 the scope of the rehearing extended -- considered
16 the issue of extending to the full period granted by
17 the rule, which is one year from filing of the
18 tariffs, and that's what the rehearing is about.

19 I would also like to clarify that the
20 People are not necessarily -- not necessarily asking
21 for actual numbers. We're -- I'm talking about the
22 time period through November 27, 2003.

1 JUDGE ALBERS: I guess, Mr. Clark, that last
2 comment there confused me a little bit. You're not
3 talking about actual numbers?

4 MR. CLARK: Well, --

5 JUDGE ALBERS: You will need actual numbers at
6 some point, will you not?

7 MR. CLARK: Well, I will need actual
8 accumulated depreciation numbers if we want to
9 update the accumulated depreciation figure through
10 November 27th, 2003, but my understanding of the
11 post-test year capital addition rule is that
12 forecasts are permitted for one year following the
13 final tariffs, and so that contemplates forecasts.

14 However, it's my understanding that the
15 record contains forecasts through June 30th.

16 MR. BYRNE: Your Honor, this is Tom Byrne for
17 Ameren. I guess that's kind of the heart of our
18 position is we believe that forecasts are permitted,
19 and in this case the Attorney General's position was
20 adopted with regard to this forecasted plant, but
21 our position was the forecast stopped earlier than
22 it should have. The forecast stopped at December

1 31st, and I guess all we're saying is that the
2 forecast should be extended to June 30th, and that
3 wouldn't require us to go through this process of
4 completely reopening the hearings and devoting a lot
5 of resources on what's really a fairly small
6 magnitude issue.

7 JUDGE ALBERS: I think I understand what
8 everyone is saying. My main concern is that
9 whatever the outcome is accurately reflects what
10 rates should be. I think I can speak for Judge
11 Brodsky here as well. I'm sure he shares that
12 concern.

13 It would seem to me that if we were to
14 accomplish that goal, having the benefit of history
15 now, we would be able to look at what was actually
16 spent on plant additions from November 27th, 2002,
17 the date of the filing, to November 27th, 2003, one
18 year from that date, and then compare that against
19 any increases, well, there will be, compare that
20 against the increases and accumulated depreciation.

21 To me, that would seem to be the most
22 accurate way to develop, you know, an outcome in

1 this -- to develop an accurate outcome in this
2 proceeding.

3 We wanted to hear from the parties in case
4 they had some thoughts that we didn't on that
5 matter. I understand Ameren's position, but I'm not
6 sure that gets us to where we need to be.

7 MR. CLARK: I think that looking at the
8 actual numbers in terms of, you know, since it's
9 behind us and history is available would require new
10 testimony.

11 MS. BUELL: Staff agrees with that, Your
12 Honor. We can't be forced to search through the
13 entire record to find out what information the
14 Company has in mind.

15 MR. BYRNE: Our position is we provide that
16 information. We would explain why our compilation
17 of it is in the record and where exactly it is. It
18 wouldn't require people to search for that
19 information.

20 JUDGE ALBERS: We're still talking about
21 projected information as it existed at the time that
22 testimony was filed, and I think what Mr. Brodsky

1 and I are getting at is information that reflects
2 what actually happened.

3 MR. BYRNE: You're right, that's not in the
4 record.

5 JUDGE ALBERS: And I think in light of what
6 it is we think we need to get to the most accurate
7 numbers we can develop -- well, let me put it this
8 way; I don't think on the Company's part, since it
9 holds all the records, and tell me if I'm wrong,
10 that looking at what historically -- looking at the
11 historical plant additions, so to speak, from
12 November 27th, 2002 to November 27th, 2003 and
13 determining what that total amount is, I don't think
14 that should take a lot of effort, relatively
15 speaking.

16 MR. FLYNN: This is Chris Flynn. I don't know
17 the answer to that. I don't know how far the
18 months have been closed and when CWIP balances have
19 been transferred.

20 I would agree with you that in principle
21 it doesn't sound particularly onerous. I just don't
22 know.

1 JUDGE ALBERS: Okay.

2 MR. FLYNN: And I don't know what complication
3 the proximity of the holidays plays as well.

4 JUDGE ALBERS: Well, Judge Brodsky and I
5 were concerned about that as well, but given that
6 the Commission granted rehearing on December 9th,
7 we've got 150 days from then to do it. I'm afraid
8 that no matter how we arrange this someone is --
9 somehow it's going to cause some problems with the
10 holidays.

11 Given what I've heard, and in light of
12 Judge Brodsky's and I's earlier discussion, I
13 believe it would be appropriate then to rely upon
14 actual numbers as opposed to numbers that were
15 forecasted or projected when we had the testimony
16 and hearing in the case in chief in this matter, or
17 rather the initial phase of this, so to speak.

18 Are there any questions about that
19 particular aspect of this?

20 Well, I think now we can turn to
21 scheduling then. Perhaps it would be most efficient
22 to go off the record to talk about dates.

1 Off the record.

2 (Whereupon an off the record
3 discussion was held.)

4 JUDGE ALBERS: We have discussed a
5 schedule, and it appears that everyone can more or
6 less live with the following:

7 UE would file direct testimony on January
8 9th. Any Staff and intervener testimony would be
9 submitted on February 10th. UE would submit
10 rebuttal testimony on February 19th.

11 A hearing will be convened at 10:00 a.m.
12 on March 2nd. Initial briefs will be due March
13 15th. Reply briefs will be due on March 19th.

14 A proposed order will be issued no later
15 than March 31st. Exceptions will be due on or about
16 April 12th, and replies to exceptions will be due on
17 or about April 16th, and the deadline on this matter
18 is May 7th.

19 And also, just note for the record, for
20 clarification purposes, that the types of plant
21 additions that we would expect to see are those
22 which would otherwise normally merit being brought

1 up under Section 285-150(e), and as far as the --
2 what's to be included in the depreciation, we
3 anticipate the parties will abide by whatever
4 guidelines and rules they normally abide by in
5 calculating increases in accumulated depreciation.

6 MS. BUELL: One other thing, Your Honor.

7 While we were off the record, Staff asked that due
8 to the tight scheduling constraints that the Company
9 use its best efforts to respond to data requests in
10 seven days.

11 MR. FLYNN: This is Chris Flynn on behalf of
12 AmerenUE. We confirm that we have represented that
13 we will use our best efforts to respond to proper
14 discovery requests within seven days. Actually,
15 we'll respond to all discovery requests within
16 seven days with an appropriate response on a best
17 effort basis.

18 JUDGE ALBERS: Thank you. Is there anything
19 else for today?

20 MR. FLYNN: This is Chris Flynn again. Just
21 for the record, the Company stated its position at
22 the outset of today's hearing, and it would like

1 noted for the record that it objects to the scope of
2 the -- any rulings by the ALJ today regarding the
3 scope of the proceeding, and that our lack of
4 objection to the schedule does not -- should not be
5 interpreted as our acquiescence in any ruling with
6 respect to the scope of this proceeding, of the
7 reopening proceeding.

8 JUDGE ALBERS: Okay. I understand.

9 MR. CLARK: I would just like to make sure
10 that the scope of the rehearing is in the record.
11 Is it in the record from the earlier part of our
12 discussion today for the rehearing order?

13 JUDGE ALBERS: Well, I'll put it to you this
14 way; when the Commission granted rehearing, the
15 question that the Commission granted rehearing on is
16 by what amount does UE's post-test year capital
17 additions exceed the increases in UE's accumulated
18 depreciation as of November 27th, 2003.

19 We had discussed previously whether or not
20 to use actual numbers looking at what transpired
21 between November 27th, 2002 and November 27th, 2003,
22 or should we simply rely on whatever forecasted or

1 projected numbers were used when we were considering
2 the testimony and engaging in the hearings that
3 occurred in the initial phase of this proceeding,
4 and we concluded that we should use actual numbers
5 as opposed to those that were initially forecasted
6 in the initial phase of this proceeding.

7 Does that answer your question,
8 Mr. Clark?

9 MR. CLARK: That does answer my question.
10 Thank you very much for clarifying that.

11 MS. BUELL: Your Honor, Staff would also
12 like to note for the record that the Commission's
13 December 9th, 2003 Notice of Commission Action
14 specifically states that the Company's petition for
15 rehearing is denied in part as to all other issues
16 and that this was the only issue that was granted by
17 the Commission.

18 JUDGE ALBERS: Okay. Does anyone have any
19 other comments or questions?

20 If anything comes up, please contact me or
21 Judge Brodsky as soon as possible so that we can try
22 to address that as quickly as possible.

1 If there is nothing further for today,
2 then I will continue this to March 2nd at 10:00 a.m.

3 Thank you.

4 (Continued to March 2, 2004 at 10:00 a.m.)

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